**DECLARATION AND POWER OF ATTORNEY - USA PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled MVA EXPRESSING MODIFIED HIV ENVELOPE, GAG, AND POL GENES; the specification of which was filed on **August 22, 2003** as Application Serial No. **10/646,628**.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Codes § 119(e) of any United States provisional application(s) listed below.

Application No.: 60/274,434

Filing Date: 03/08/2001

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S.A. Application(s)

Serial No.: **PCT/US02/06713**

Filing Date: **03/01/2002**

Status: **Pending**

POWER OF ATTORNEY: I hereby appoint the registrants of National Institutes of Health Offices of Technology Transfer, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852, telephone (301) 496-7056, **Customer No. 005318**.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor: **Bernard Moss**

Inventor's signature 

Date Feb 2, 2004

Residence: **10301 Dickens Avenue, Bethesda, MD 20814**

Citizenship: **USA**

Post Office Address: **Bethesda, Maryland**

Full name of Second inventor: **Linda Wyatt**

Inventor's signature *Linda Wyatt*

Date *Jul 2, 2004*

Residence: **11201 Huntover Drive, Rockville, MD 20852**

Citizenship: **USA**

Post Office Address: **Rockville, Maryland**

Full name of Third inventor: **Patricia Earl**

Inventor's signature Pat Earl

Date Feb 2, 2004

Residence: **3520 Woodbine Street, Chevy Chase, MD 20815**

Citizenship: **USA**

Post Office Address: **Chevy Chase, Maryland**

Full name of Fourth inventor: **Harriet L. Robinson**

Inventor's signature Harriet L. Robinson Harriet L. Robinson

Date Jan 16, 2004

Residence: **1051 Mason Woods Drive, Atlanta, GA 30329**

Citizenship: **USA**

Post Office Address: **Atlanta, Georgia**

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

Direct Telephone Calls To:
Nancy W. Vensko

(805) 547-5580

NIHDECL
O:\DOCS\NWV\NWV-9590.DOC
011204

COPY
DO NOT RECORD

ASSIGNMENT

WHEREAS, I, Harriet L. Robinson, a USA citizen, residing at 1051 Mason Woods Drive, Atlanta, GA 30329, have invented certain new and useful improvements in a MVA EXPRESSING MODIFIED HIV ENVELOPE, GAG, AND POL GENES for which I have filed an application for Letters Patent in the United States Serial No. 10/646,628 filed August 22, 2003, which claims the benefit of International Application No. PCT/US02/06713 filed March 1, 2002, which claims the benefit of U.S. Provisional Application No. 60/274,434 filed March 8, 2001;

AND WHEREAS, Emory University (hereinafter "ASSIGNEE"), a Georgia nonprofit corporation with offices located at 1380 South Oxford Road, Atlanta, GA 30322, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, I, the said inventor, do hereby acknowledge that I have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all provisional applications relating thereto, and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and I hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND I HEREBY covenant and agree that I will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to me respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 16 day of January, 2004

Harriet L. Robinson

Harriet L. Robinson

Harriet L. Robinson

STATE OF

COUNTY OF

SS.

On 1/16/04, before me, Gail J. McClure, personally appeared Harriet L. Robinson personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Gail J. McClure
Notary Signature

COPY
DO NOT RECORD

NIH211.001C1

PATENT

ASSIGNMENT

WHEREAS, we, Bernard Moss: 10301 Dickens Avenue, Bethesda, MD 20814; citizen: USA; Linda Wyatt: 11201 Huntover Drive, Rockville, MD 20852; citizen: USA; and Patricia Earl: 3520 Woodbine Street, Chevy Chase, MD 20815; citizen: USA; employees of the Department of Health and Human Services, have invented MVA EXPRESSING MODIFIED HIV ENVELOPE, GAG, AND POL GENES, for which we have made application for Letters Patent of the United States Serial No. 10/646,628 Filed August 22, 2003, which claims the benefit of International Application No. PCT/US02/06713 filed March 1, 2002, which claims the benefit of U.S. Provisional Application No. 60/274,434 filed March 8 2001;

WHEREAS, we are the applicants named in the above-identified application for Letters Patent;

WHEREAS, the conditions under which said invention was made are such as to entitle the Government under Paragraph 1(a) of Executive Order 10096 to the entire right, title, and interest herein, both domestic and foreign; and

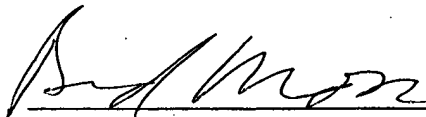
WHEREAS, the Government of the United States is desirous of acquiring all domestic and foreign right, title and interest in the above-mentioned invention described in the application for Letters Patent; and

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, we hereby assign and transfer to the United States of America, as represented by the Secretary, Department of Health and Human Services, the full and exclusive rights in and to said invention in the U.S. and within each and every foreign country in which the Government elects to file and the entire right, title and interest in and to such applications, and any continuations, continuations-in-part, divisions, reissues or extensions thereof, and including priority rights as may be filed in the U.S. and foreign countries, and such Letters Patent as may be granted to be held by the Government to the end of the term for which the same would have been held by the inventors had this assignment not been made.

We further agree to make, execute and deliver to the Secretary, Department of Health and Human Services, upon request, any and all papers, documents, affidavits or other instruments that may be necessary in the prosecution of any application or applications for improvements or reissues of Letters Patent, and to assist the Government in every way as may be requested in protecting said invention, provided that any expense of extending such assistance shall be paid by the Government.

Client Code : NIH211.001C1
Serial No. : 10/646,628
Filing Date : August 22, 2003

IN WITNESS WHEREOF, I hereunto set my hand and seal this 2 day of Feb., 2004



Bernard Moss

STATE OF Maryland
COUNTY OF Montgomery ss.

On this 2ND day of February, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared Bernard Moss, personally known to me or proven on the basis of satisfactory evidence to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be his/her free act and deed.



Notary Public in and for the aforesaid County and State

My Commission Expires: Feb. 1, 2006

Client Code : NIH211.001C1
Serial No. : 10/646,628
Filing Date : August 22, 2003

IN WITNESS WHEREOF, I hereunto set my hand and seal this 2 day of Feb, 2004

Linda Wyatt
Linda Wyatt

STATE OF Maryland
COUNTY OF Montgomery ss.

On this 2nd day of February, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared Linda Wyatt, personally known to me or proven on the basis of satisfactory evidence to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be his/her free act and deed.

Rita A. Copronechi
Notary Public in and for the aforesaid County and State

My Commission Expires: February 1, 2006

Client Code : NIH211.001C1
Serial No. : 10/646,628
Filing Date : August 22, 2003

IN WITNESS WHEREOF, I hereunto set my hand and seal this 2 day of Feb, 2004

Pat Earl
Patricia Earl

STATE OF Maryland
ss.

COUNTY OF Montgomery

On this 2ND day of February, 2004, before me, a Notary Public in and for the State and County aforesaid, personally appeared Patricia Earl, personally known to me or proven on the basis of satisfactory evidence to be the person of that name, who signed and sealed the foregoing instrument, and acknowledged the same to be his/her free act and deed.

Peter A. Capobianchi
Notary Public in and for the aforesaid County and State

My Commission Expires: Feb. 1, 2006

NIHASS
O:\DOCS\NWV\NWV-9592.DOC
011204